

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><i>(All Comments submitted on this regulation will appear on IRRC's website)</i></p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>RECEIVED</p> <p>DEC - 9 2020</p> <p>Independent Regulatory Review Commission</p>
<p>(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Psychology</p>		
<p>(2) Agency Number: 16A Identification Number: 6326</p>		
<p>(3) PA Code Cite: 49 Pa. Code §§ 41.1, 41.52a and 41.52b</p>		IRRC Number: 3284
<p>(4) Short Title: Licensure by Endorsement under Act 41</p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Jackie Wiest Lutz, Board Counsel, State Board of Psychology, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) (jlutz@pa.gov).</p> <p>Secondary Contact: Jacqueline A. Wolfgang, Acting Senior Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) jawolfgang@pa.gov.</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation <input type="checkbox"/> FINAL REGULATION <input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The act of July 1, 2019 (P.L. 292, No.41) (Act 41 of 2019) requires the State Board of Psychology to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency by methods determined by the Board; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the Board determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the Board determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established</p>		

by regulation. Additionally, Act 41 of 2019 authorizes boards and commissions to issue a provisional license, certificate, registration, or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. This rulemaking effectuates Act 41 of 2019.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Act 41 of 2019 amended the act of July 2, 1993 (P.L. 345, No. 48) (63 P.S. § 2206.1) by adding section 6.1 (relating to licensure by endorsement) to require licensing boards and commissions to issue a license, certificate, registration or permit to an applicant, who pays fees established by the Board by regulation, provided the applicant meets certain criteria for eligibility. Act 41 of 2019 also requires boards and commissions that issue provisional licenses, certificates, registration or permits to set the expiration of the provisional endorsement license by regulation.

On July 1, 2020, Act 41 was recodified and consolidated by Act 53 of 2020 (P.L. 545, No. 53) in Title 63 of the Pennsylvania Consolidated Statutes at 63 Pa. C. S. § 3111.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Section 6.1(a)(5) of Act 41 of 2019 requires the Board to set the fee to be charged by regulation and section 6.1(b)(2) requires the Board to set an expiration of the provisional endorsement license by regulation. Otherwise, it is not mandated by any Federal or state law or court order, or Federal regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation is needed to implement Act 41 of 2019 to provide for licensure by endorsement to applicants from other states, territories and countries. Act 41 of 2019 was enacted due to a recognition that licensed professionals from other jurisdictions have difficulty obtaining a license to practice in this Commonwealth. Act 41 of 2019 eliminates unnecessary barriers to licensure for citizens from other jurisdictions and for military personnel and their spouses while maintaining sufficient safeguards to ensure public protection. Act 41 of 2019 enables boards and commissions under the Bureau of Professional and Occupational Affairs to issue a license by endorsement, and further provides for a provisional endorsement license to quickly move these professionals into the workforce without unnecessary delays, which reduces the barriers to employment.

Since the effective date of Act 41 of 2019 (August 30, 2019), the Board has received and considered two applications under Act 41 of 2019. Of the two applications, the Board has issued one license. Based upon the number of applications received during the first year, the Board estimates receiving 5 applications on an annual basis.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards applicable to the subject matter of the regulation.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This regulation will not adversely affect Pennsylvania's ability to compete with other states. The purpose of Act 41 of 2019 is to make it easier for out-of-state applicants, including military spouses, who have an out-of-state professional or occupational license to work in Pennsylvania. Act 41 of 2019 reduces barriers to employment, which will make Pennsylvania more competitive. Act 41 of 2019 and the Board's proposed regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy. Surrounding states also have similar laws and regulations for licensure by endorsement in the psychology field.

In comparing the proposed regulation to other states, the Board researched states in the Northeastern region of the United States. The Board identified only one other State (New Jersey) that has a comprehensive license by endorsement law that is applicable to the various professional licensing boards in New Jersey. Like Act 41 of 2019, New Jersey requires its professional licensing boards to issue a license to any person who holds a current professional or occupational license in good standing whose licensure standards are substantially equivalent to the current standards of New Jersey. Unlike Act 41 of 2019, New Jersey does not require applicants to demonstrate competency and does not provide discretion to issue a discretionary provisional license. While Pennsylvania's competency requirements may be more stringent than New Jersey, demonstration of competency is statutorily required under Act 41. Moreover, for the most part, other states require similar continuing education for renewal; therefore, for the most part, showing competency will not negatively impact Pennsylvania's ability to compete.

A summary of the requirements for licensure by endorsement or reciprocity by these remaining states is as follows:

The Virginia Board grants licensure by endorsement to an applicant who is licensed or certified to practice psychology in another jurisdiction in which the requirements for licensing are substantially equivalent to those required by the Virginia Board, but the applicant must be a diplomat in good standing of the American Board of Professional Psychology; hold evidence of professional qualification from an individual certification program acceptable to the board; and taken and pass an examination on the Virginia laws and rules governing the practice of psychology.

The Vermont Board will grant licensure by endorsement to an applicant who is licensed at either the master's or doctoral level and in good standing in another U.S. or Canadian jurisdiction if, in the opinion of the Board, the other state has substantially equivalent standards. A state that requires as few as 1,500 hours of postdoctoral practice may be accepted as substantially equivalent. Doctoral level psychologists have additional mobility pathways. Diplomate status through the American Board of Professional Psychology (ABPP) is accepted as evidence that the psychologist has met qualifications on the level that Vermont requires. Vermont may also consider other professional certifications. Internationally educated candidates must have their education and

training evaluated by one of four Board-approved organizations: the Center for Applied Research, Evaluation & Education, Inc., Educational Records Evaluation Service, Inc., Evaluation Service, Inc., or World Education Services, Inc.

Connecticut, Delaware, Massachusetts, Ohio, Rhode Island, and West Virginia only have licensure by reciprocity. Unlike Act 41 and the Board's proposed regulation, licensure by reciprocity generally requires that an applicant must be licensed and currently practicing the profession in another jurisdiction whose standards for licensure are substantially similar to the standards in the reciprocating jurisdiction. Maryland only offers "limited reciprocity" to an applicant from another state who seeks to work in Maryland while in the process of fulfilling state-specific examination requirements. In Maryland, the psychologist must file an application within 90 days of taking up residence in the state and is expected to take the next available examination. The Maine Board may, in its discretion, offer a conditional license without examination to any person who at the time of application is licensed by a similar board of another state whose standards, in the opinion of the board, are equivalent to those of Maine. But a conditional license is only effective for one year and requires that the licensee practice only under supervision. New Hampshire requires persons who wish to apply for a license as a psychologist and are already licensed in another state to answer written essay questions. New York does not offer reciprocity or licensure by endorsement.

Based on this information, the Board does not believe that the proposed amendments, which are necessary to effectuate the provisions of Act 41 of 2019, will put Pennsylvania at a competitive disadvantage. To the contrary, by allowing applicants to become licensed through endorsement who can demonstrate competency by experience in the practice of psychology for at least two of the five years immediately preceding the date of application, or by completing 30 hours of continuing education during the 24 months immediately preceding the date of application, and by providing for provisional licenses, which allows an applicant to hold a provisional license while the applicant is satisfying remaining requirements for licensure by endorsement, Pennsylvania will be at a competitive advantage over states that do not have licensure by endorsement.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking does not affect other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

On June 17, 2020, the Board submitted an exposure draft of the proposed regulation to stakeholders and interested parties, inviting public comment for 30 days. No comments were received.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

For purposes of this rulemaking, the Board estimates that approximately five individuals will apply for licensure by endorsement on an annual basis.

According to the Pennsylvania Department of Labor and Industry, in 2016 (the most recent year for which data is available), psychologists, including clinical, counseling, school and industrial-organizational psychologists, held about 166,600 jobs. The largest employers of psychologists were elementary and secondary schools; state, local, and private (27%), followed by self-employed workers (24%); ambulatory healthcare services (18%); government (10%); and hospitals – state, local and private (7%). Some psychologists work alone, doing independent research, consulting with clients, or counseling patients. Others work as part of a healthcare team, collaborating with physicians, social workers and others to treat illness and promote overall wellness.

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where psychologists may work, a small business classified under NAICS code elementary and secondary schools (NAICS code 611110) are considered small businesses if they have 12.0 million or less in average annual receipts. Miscellaneous ambulatory health care services (NAICS code 621999) are considered small businesses if they have 16.5 million or less in average annual receipts. General medical and surgical hospitals (NAICS code 622110) are considered small businesses if they have 41.5 million or less in average annual receipts. The Board does not collect data relating to business size but believes that the majority of psychologists in the Commonwealth work in "small businesses" as the term is defined by the SBA and the Regulatory Review Act. The Board, likewise, does not collect information on the size of the businesses where its licensees are employed. However, for purposes of determining the economic impact on small businesses, the Board must assume that a large number of its licensees either are, or work for, small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

This rulemaking only affects individuals who apply for licensure by endorsement. These individuals would be impacted by the \$105 fee to apply for licensure. This fee is the same amount as applicants who apply for initial licensing under § 41.12. For applicants who demonstrate competency by completing 30 hours of continuing education, these applicants will incur an additional cost of approximately \$750 to satisfy this requirement. Whether small businesses will be impacted by the regulations depends on whether the businesses would pay the initial application fee for licensure by endorsement under Act 41 and whether employers voluntarily pay the costs of completing competency requirements, which include completion of continuing education. Because the application fees are incurred by individuals applying for initial licensure by endorsement under Act 41, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Applicants for licensure by endorsement as a psychologist will be required to comply with the proposed regulation. The Board estimates an average of 5 licensure by endorsement applications a year for this profession. Small businesses will only be impacted to the extent they voluntarily pay licensure fees and other costs for applicants.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The Commonwealth will benefit from licensure by endorsement under Act 41. The purpose of Act 41 of 2019 is to make it easier for out-of-state applicants, including military spouses, who have an out-of-state professional or occupational license to work in Pennsylvania. The purpose of Act 41 of 2019 is to reduce barriers to employment, which will make Pennsylvania more competitive. Act 41 of 2019 and the Board's regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.

The citizens of the Commonwealth will also benefit from the enhanced workforce and growth in economy while still having assurance of a level of competence similar to existing licensees in this Commonwealth. The Board has selected methods of competence, including experience or continuing education. These methods assure competency consistent with the provisions of Act 41 of 2019. The provisional endorsement license option also allows applicants who need to satisfy outstanding requirements, such as continuing education hours to demonstrate competency, to practice under a provisional license while the applicant satisfies the remaining requirements for licensure by endorsement. This pathway for licensure never existed before.

The financial impact of the regulation falls primarily on the applicants and the Board. Individuals seeking licensure by endorsement will incur costs associated with qualifying for and obtaining a license. As noted above, an applicant applying for licensure by endorsement under Act 41 of 2019 would be required to pay the \$105 application fee, which covers the costs of processing the application. This application fee is the same for all other applicants applying for licensure. For foreign applicants, if the other law, regulation or other rule is in a language other than English, § 41.51a (1) would require the applicant to have it professionally translated at the applicant's expense. The Board has been accepting and processing Act 41 applications for approximately one year. The Board has not yet received any Act 41 applications from foreign applicants.

To the extent that an applicant must complete continuing education to prove competency, an applicant may incur those costs to obtain continuing education credits. The average cost for current licensees to complete 30 hours of continuing education as a condition to biennial licensure renewal is between \$20 to \$30 per credit, or approximately \$750 per biennium. Therefore, an applicant who demonstrates competency through the completion of continuing education may incur a small fee for doing so. However, the requirement to prove competency is a statutory requirement and the continuing education competency method chosen by the Board is specifically authorized by Act 41 of 2019. Additionally, the requirement that an applicant complete 30 hours of continuing education during the 24 months immediately preceding the date of application, if the applicant has not actively

engaged in the practice of psychology for two of the last five years, is no different than the existing continuing education requirement for all licensees. Regarding the requirement to complete three hours of training in child abuse recognition and reporting, this is a statutorily mandated requirement for all health-related licensees under the Child Protective Services Law (23 Pa.C.S. § 6383(b)(3)(i)). There should not be a negative fiscal impact for the child abuse recognition and reporting training because there are free in-person and online options available.

The positive impact for the applicants is that Act 41 of 2019 and the proposed regulation provide a new pathway to licensure that did not previously exist.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

As previously discussed, Act 41 of 2019 benefits this Commonwealth and its citizens and individual applicants wishing to obtain licensure. The costs associated with obtaining licensure are outweighed by the need of the Board to set fees to cover its costs for processing applications to maintain the fiscal integrity of the Board, and by the equity of assessing the costs of processing applications to the applicants themselves, as opposed to the existing licensee population bearing these costs through increased biennial renewal fees. The General Assembly contemplated and weighed the impact of imposing fees on applicants in § 6.1 (a)(5) of Act 41 of 2019 against the benefits of providing an additional pathway to licensure to individuals from other jurisdictions. While avoiding economic impact to applicants is always preferable, the General Assembly recognized that boards fees are necessary in order to pay for the costs associated with the filing of applications.

Regarding the cost of translating the law, regulation or other rule to English, this is a necessary part of the application process. If the Board is unable to understand the other jurisdiction's requirements, it will not be able to determine whether those requirements are substantially equivalent.

Regarding costs associated with demonstrating competency, the Board is authorized to select the appropriate method of competency under section 6.1(a)(2) of Act 41 of 2019 and has provided applicants with two alternatives. Applicants who demonstrate competency through experience in the practice of psychology for at least 2 of the 5 years immediately preceding the date of application in the jurisdiction that issued the license will incur no costs to demonstrate competency. Applicants who demonstrate competency by completing 30 hours of continuing education during the 24 months immediately preceding the date of their application, will incur minimal costs to complete necessary continuing education. Additionally, completing the mandatory child abuse recognition and reporting training will not have a negative fiscal impact if the applicant chooses a free training course. Requiring licensees to take this training will have a positive impact on the profession and for Pennsylvania citizens because psychologists will be educated on recognizing child abuse and will also have specific training on how to report child abuse this Commonwealth.

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

An individual applying for licensure by endorsement under Act 41 of 2019 will incur some costs, including paying the \$105 application fee and may incur costs associated with demonstrating

competency. Since the effective date of Act 41 of 2019, the Board has received two licensure by endorsement applications and issued one license. During this period, the total costs incurred for application fees was \$210. The applicants did not incur any costs to meet the competency requirement. The Board anticipates approximately five licensure by endorsement applications per year, which will result in approximate costs to the regulated community in the amount of \$525 annually ($\$105 \times 5 = \525). For applicants who demonstrate competency by completing 30 hours of continuing education, these applicants will incur an additional cost of approximately \$750 to satisfy this requirement. If all five of the anticipated number of licensure by endorsement applicants per year were to satisfy the competency requirement by completing continuing education, the cost to the regulated community would be approximately \$3,750 ($\$750 \times 5 = \$3,750$). In responding to paragraph 23 below, the cost reported includes the potential costs for continuing education, which assumes that all five of the anticipated number of licensure by endorsement applicants satisfy the competency requirement by completing 30 hours of continuing education.

(20) Provide a specific estimate of the costs and/or savings to the local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation would not result in costs or savings to local governments.

(21) Provide a specific estimate of the costs and/or savings to the state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Board will incur increased operational costs to implement the licensure by endorsement under Act 41 of 2019. The costs incurred by the Board should be recouped in the form of application fees paid by the applicants.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There should be no legal, accounting or consulting procedures associated with this rulemaking. Like all other applicants under the Board, affected individuals will be required to submit an application for licensure accompanied by required documentation.

(22a) Are forms required for implementation of the regulation?

Yes, applicants will be required to submit an online application through the Pennsylvania Licensing System or PALS.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

The agency uses an online platform for the submission of applications for licensure through PALS, which also encompasses licensure by endorsement under Act 41. Within the online platform, applicants are asked a series of questions. Act 41 questions added to the online application are attached. *See, Attachment "A."*

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 20-21	FY +1 21-22	FY +2 22-23	FY +3 23-24	FY +4 24-25	FY +5 25-26
SAVINGS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	\$210	\$210	\$4,275	\$4,275	\$4,275	\$4,275
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Costs	\$210	\$210	\$4,275	\$4,275	\$4,275	\$4,275
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 2017-2018 (actual)	FY -2 2018-2019 (actual)	FY -1 2019-2020 (estimated)	Current FY 2020-2021 (budgeted)
State Board of Psychology	\$803, 710.05	\$807,221.82	\$737,000	\$757,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

(a) This rulemaking will not have an adverse impact on small businesses unless small businesses voluntarily pay application fees or other costs relating to establishing competency. Because these fees are incurred by individuals applying for initial licensure, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs.

(b) This rulemaking will not impose additional reporting, recordkeeping or other administrative costs on small businesses.

(c) The probable effect on impacted small businesses would be positive because Act 41 of 2019 and the Board's regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.

(d) The Board could discern no less costly or less intrusive alternative methods to effectuate the purpose of Act 41 of 2019 that would be consistent with the Board's mandate to produce enough revenue to cover its costs of operations and to administer the act in the public interest.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No special provisions have been developed for any affected groups or persons.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions were considered and rejected. The Board believes this proposal represents the least burdensome acceptable alternative.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

a) & b) The Board did not consider less stringent reporting requirements or deadlines for small businesses or for applicants that intend to work for small businesses. All applicants for licensure are treated equally.

c) There are no compliance or reporting requirements that could be consolidated or simplified. The application process is the same whether a particular licensee is employed by a small business or a large business.

d) The regulations do not contain design or operational standards that need to be altered for small businesses.

e) To exclude any applicant from the requirements contained in the regulation based on the size of their employers would not be consistent with the statute, or the Board's mandate.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data, studies or references were used to justify the regulation.

(29) Include a schedule for review of the regulation including:

A. The length of the public comment period: **30 days.**

B. The date or dates on which any public meetings or hearings will be held:

No public hearings were scheduled or held. The Board discusses its regulatory proposals at regularly scheduled meetings. This rulemaking was discussed at public board meetings on June 15, 2020 and August 3, 2020.

C. The expected date of the final-form regulation: **Spring 2021.**

D. The expected effective date of the final-form regulation: **Upon publication as final.**

E. The expected date by which compliance with the final-form regulation will be required: **Upon publication as final.**

F. The expected date by which required permits, licenses or other approvals must be obtained: **N/A**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings. The Board will meet on the following dates in 2020: December 7, 2020. More information can be found on the Board's website at www.dos.pa.gov/psychology.

ATTACHMENT “A”

United States

Phone Number

[REDACTED]

Email

[REDACTED]

Maiden/Other Name

PLEASE ANSWER THE FOLLOWING QUESTIONS

Do you hold a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB) OR a current National Register of Health Service Providers in Psychology (National Register) Credential? If yes, the Board must receive a current CPQ directly from ASPPB or a current National Register Credential directly from the National Register.

Yes No

Please select one of the two education statements below and one of the four experience statements below.

Have received a doctoral degree from a program that is either accredited by the American Psychological Association (APA) or designated by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project.

Have received a doctoral degree from a program that is NOT accredited by the American Psychological Association (APA) or designated by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project (must have been enrolled in the program prior to July 1, 2008) OR do you have a license to practice psychology in another state, country or territory?

Have not yet completed supervised experience AND the supervised experience began on or before December 5, 2010.

Have not yet completed supervised experience AND the supervised experience began on or after December 6, 2010.

Have completed supervised experience that began on or before December 5, 2010.

Have completed supervised experience that began on or after December 6, 2010.

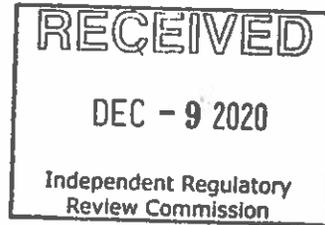
EDUCATION INFORMATION:

Please enter the College/University where doctoral degree was obtained.

Name of School/College/University

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)



DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: <u>Amy M. Elliott</u> (DEPUTY ATTORNEY GENERAL)</p> <p><u>11/20/2020</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by</p> <p><u>DEPARTMENT OF STATE</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO <u>16A-6326</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Richard F. Small</u> Richard F. Small, Ph.D.</p> <p>TITLE <u>Chairperson</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>Marisa H. Z. Lehr</u> (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><u>10/26/2020</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission</p>
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PROPOSED RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PSYCHOLOGY

49 PA. CODE CHAPTER 41
(LICENSURE BY ENDORSEMENT UNDER ACT 41)

The State Board of Psychology (Board) proposes to amend Title 49 Pennsylvania Code, Chapter 41 by adding sections 41.52a and 41.52b (relating to licensure by endorsement under Act 41 and provisional endorsement license under Act 41) and amending section 41.1 (relating to definitions) to read as set forth in Annex A.

Effective date

The amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

The act of July 1, 2019 (P.L. 292, No. 41) (Act 41 of 2019) requires licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, Act 41 of 2019 authorizes boards and commissions to issue a provisional license, certificate, registration, or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration.

On July 1, 2020, Act 41 of 2019 was recodified and consolidated by Act 53 of 2020 (P.L. 545, No. 53), in Title 63 of the Pennsylvania Consolidated Statutes at 63 Pa. C.S. § 3111. This rulemaking effectuates Act 41 of 2019.

Background and Need for the Amendments

The proposed rulemaking is needed to effectuate Act 41 of 2019, which requires the Board to issue a license to applicants who meet the requirements for licensure by endorsement as set forth in Act 41 of 2019. Under Act 41 of 2019, the Board must determine whether standards for licensure are substantially equivalent to or exceed those established by the Board. Additionally, Act 41 of 2019 requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least two of the five years preceding the date of the application, and must establish, by regulation, the expiration of provisional endorsement license. This rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

Description of the Proposed Amendments

The Board proposes to amend section 41.1 (relating to definitions) by adding definitions for the terms “Act 41” and “jurisdiction.” The term “jurisdiction” is defined consistent with Act 41 of 2019 to include a state, territory or country. The Board also proposes to add sections 41.52a and 41.52b to Chapter 41. Section 41.52a (relating to licensure by endorsement under Act 41) requires an applicant to satisfy seven criteria for licensure by endorsement. The first criterion, as set forth in § 41.52a(a)(1), requires an applicant to provide proof of a current license, certification, registration or permit in good standing to practice in another jurisdiction whose standards are substantially equivalent to or exceed those established by the Board under section 6 of the Professional Psychologists Practice Act (act) (63 P.S. § 1206) (relating to qualification for license), and §§ 41.31 and 41.32 (relating to educational qualifications; and experience qualifications), respectively. Section 41.52a(a)(1) further requires an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. The proposed regulations would also require that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because Act 41 of 2019 is applicable to territories and other countries that use languages other than English, where the applicable law, regulation or other rule is in a language other than English, the Board would require, at the applicant’s expense, translation of the applicable law, regulation or other rule by a professional translation service.

The second criterion requires demonstration of competency and is set forth in § 41.52a(a)(2). Under this provision, an applicant must provide proof of competency by demonstrating either experience in the practice of the profession or completion of continuing education. To demonstrate competency by experience, an applicant must demonstrate active engagement in the practice of psychology for at least 2 of the 5 years immediately preceding the date of the application in the jurisdiction that issued the license, certificate, registration or permit. To demonstrate competency by continuing education, an applicant must submit proof of completion of 30 hours of continuing education that meets the requirements of § 41.59 (relating to continuing education). The continuing education must be completed during the 24 months immediately preceding the date of the application. The Board proposes completion of the continuing education within 24 months immediately preceding the date of the application because a 24-month limitation correlates with the Board’s biennial renewal continuing education requirement.

The third and fourth criteria are set forth in § 41.52a(a)(3) and (4) incorporate the statutory prohibitions in section 6.1(a)(3) and (4) of Act 41 of 2019 pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession or occupation, and prior discipline by the jurisdiction that issued the license.

The fifth criterion is set forth in § 41.52a(a)(5) and provides for payment of an application fee, as required by section 6.1(a)(5) of Act 41 of 2019. The applicable fee for licensure by

endorsement under Act 41 of 2019 is the initial application fee in § 41.12 of the Board's current fee schedule (\$105).

The sixth criterion requires applicants to satisfy application requirements, as set forth in the act and Chapter 41, including compliance with § 41.30(b)(2) and (3). Under § 41.30(b) (2) and (3), an applicant is required to submit a criminal history records information report and a Child Abuse History Clearance.

Finally, the seventh criterion requires completion of three hours of training in child abuse recognition and reporting, which is mandated continuing education under the Child Protective Services Law (23 Pa.C.S. § 6383(b)(3)(i)).

In § 41.52a(b) of the proposed regulation, the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. Also, consistent with section 6.1(a)(3) and (4) of Act 41 of 2019, section 41.52a(c) authorizes the Board, in its discretion, to determine that an act prohibited under section 8 of the act (63 P.S. §1208) or disciplinary action by a jurisdiction are not impediments to the granting of a license, certification, registration or a permit by endorsement under Act 41.

Consistent with section 6.1(b) of Act 41 of 2019, § 41.52b (relating to provisional endorsement license under Act 41) provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under Act 41 of 2019 and § 41.52a. Section 41.52b(b) sets the expiration of a provisional endorsement license at one year, unless the Board determines that an expiration date of less than one year is appropriate. Additionally, upon a written request, the Board may extend the term of the license upon a showing of good cause. Section 41.52b(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board denies a license or the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license. Finally, § 41.52b(d) clarifies that while an individual may reapply for a license by endorsement under § 41.52a, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement will be recouped through fees paid by applicants. Applicants who apply for licensure by endorsement will be impacted by the \$105 initial application fee in § 41.12 and may incur continuing education expenses if they choose to demonstrate competency by completing 30 hours of continuing education. Applicants who demonstrate competency through experience will have to pay the \$105 initial application fee. All applicants must complete child abuse recognition and reporting training, as required by section 6383(b)(3)(i) of the Child Protective Services Law (23 Pa.C.S. § 6383(b)(3)(i)). There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this

statutorily mandated training.

Sunset Date

The Board continuously monitors the cost effectiveness of the Board's regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P.S. § 745.5(f)), on December 9, 2020, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC). A copy of this material is available to the public upon request. On the same date, the Board submitted this proposed rulemaking to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. The Board will submit this proposed rulemaking and required material to the standing committees of the House and Senate no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Board Counsel, State Board of Psychology, at P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail at RA-STRegulatoryCounsel@pa.gov within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference 16A-6326 (Licensure by Endorsement under Act 41), when submitting comments.

Richard F. Small, Ph.D.
Chairperson
State Board of Psychology

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 41. STATE BOARD OF PSYCHOLOGY

GENERAL

§ 41.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Act – The Professional Psychologists Practice Act (63 P.S. §§1201 – 1218).

Act 41 – Act of July 1, 2019, (P.L. 292, No. 41) (63 Pa.C.S. § 3111).

Board – The State Board of Psychology of the Commonwealth.

* * * * *

Jurisdiction – a state, territory or country.

National Register – The Council for the National Register of Health Service Providers.

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MISCELLANEOUS

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§ 41.52a. Licensure by endorsement under Act 41.

(a) To be issued a license by endorsement under Act 41, an applicant must satisfy all of the following requirements:

(1) Has a current license, certification, registration or permit in good standing to practice psychology in another jurisdiction whose standards are substantially equivalent to or exceed those established by the Board under section 6 of the Act (relating to qualifications for license) and §§ 41.31 and 41.32 (relating to educational qualifications; and experience qualifications).

(i) An applicant must submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certification, registration or permit.

(ii) If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

(iii) The copy of the applicable law, regulation or other rule must include the enactment date.

(2) Demonstrates competency by one of the following:

(i) Experience in the practice of psychology by demonstrating, at a minimum, that the applicant has actively engaged in the practice of

psychology in the jurisdiction that issued the license, certificate, registration or permit for 2 of the last 5 years immediately preceding the filing of the application with the Board.

(ii) Completion of 30 hours of continuing education that meets the requirements of § 41.59 (relating to continuing education) during the 24 months immediately preceding the date of the application.

(3) Has not committed any act that constitutes grounds for refusal, suspension or revocation of a license to practice psychology under section 8 of the act (relating to refusal, suspension or revocation of license).

(4) Has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.

(5) Has paid the initial application fee as set forth in § 41.12.

(6) Satisfies application requirements as required by the act and this chapter, including § 41.30(b)(2) and (3) (pertaining to documentation necessary for licensure).

(7) Completes 3 hours of training in child abuse recognition and reporting from a provider approved by the Department of Human services as required by section 6383(b)(3)(i) of the Child Protective Services Law (23 Pa.C.S. § 6383(b)(3)(i)).

(b) An applicant may be required to appear before the Board for a personal interview and may be requested to submit additional information, including supporting documentation relating to competency and experience.

(c) Notwithstanding subsection (a)(3) and (4), the Board may, in its discretion, determine that an act prohibited under section 8 of the act or disciplinary action by a jurisdiction are not impediments to the granting of a license by endorsement under Act 41.

§ 41.52b. Provisional Endorsement License under Act 41

(a) *Provisional Endorsement License.* The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying remaining requirements for licensure by endorsement under Act 41 and § 41.52a(a).

(b) *Expiration of a Provisional Endorsement License.*

(1) An individual holding a provisional endorsement license may practice for up to 1 year after issuance of the provisional endorsement license. The Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon a written request and a showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) *Termination of a Provisional Endorsement License.* A provisional endorsement license terminates as follows:

(1) The provisional endorsement license terminates when the Board denies the license.

(2) Failure to comply with the terms of a provisional endorsement license will result in termination of the provisional endorsement license.

(d) An individual may reapply for licensure by endorsement under § 41.52a after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PSYCHOLOGY

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December 9, 2020

The Honorable George D. Bedwick, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Board of Psychology
16A-6326: Licensure by Endorsement Under Act 41

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Board of Psychology pertaining to Licensure by Endorsement Under Act 41.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,


Richard F. Small, PhD, Chairperson
State Board of Psychology

RFS/kjs:aaw
Enclosure

cc: K. Kalonji Johnson, Acting Commissioner of Professional and Occupational Affairs
Kraig R. Kiehl, Deputy Secretary of Regulatory Programs
Marc Farrell, Deputy Director of Policy, Department of State
Cynthia Montgomery, Deputy Chief Counsel, Department of State
Jacqueline A. Wolfgang, Regulatory Unit Counsel, Department of State
Kenneth J. Suter, Counsel, State Board of Psychology
State Board of Psychology

Stephen Hoffman

From: Bulletin <bulletin@palrb.us>
Sent: Wednesday, December 9, 2020 8:51 AM
To: Worthington, Amber
Cc: Adeline E. Gaydosh
Subject: [External] Re: DELIVERY Proposed Rulemakings 16A-6518 & 16A-6326

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.
Good morning Amber!

Thank you for sending these. They will both be published in the 12/19 issue of the *Pennsylvania Bulletin*.

Have a wonderful day!

Adeline

From: Worthington, Amber <agontz@pa.gov>
Sent: Wednesday, December 9, 2020 8:24 AM
To: Bulletin <bulletin@palrb.us>
Subject: DELIVERY Proposed Rulemakings 16A-6518 & 16A-6326

Please acknowledge receipt of delivery of the attached Proposed Rulemakings for Publication.

Thanks,

Amber Worthington, PLS | *Supervising Legal Assistant*
Department of State | Counsel Division Legal Office | Clerical Supervisor 2
2601 North Third Street, P.O. Box 69523
Harrisburg, PA 17106-9523
Phone: 717.783.7200 | Fax: 717.787-0251
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